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**State of California
Office of Administrative Law**

by EXECUTIVE DIRECTOR'S OFFICE
STATE BOARD OF EQUALIZATION

In re:

Board of Equalization

Regulatory Action:

Title 18, California Code of Regulations

Adopt sections:

Amend sections:

Repeal sections: 2558, 2558.1, 2559, 2559.1,
2559.3, 2559.5

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

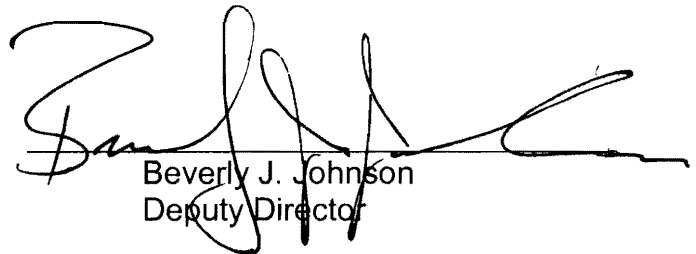
**California Code of Regulations, Title 1,
Section 100**

OAL File No. 2012-1130-02 N

This change without regulatory effect by the State Board of Equalization repeals sections 2558, 2558.1, 2559, 2559.1, 2559.3, 2559.5, of Title 18, of the California Code of Regulations. The changes are necessary because a California court of competent jurisdiction held the regulations to be invalid.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

Date: 1/8/2013



Beverly J. Johnson
Deputy Director

For: DEBRA M. CORNEZ
Director

Original: Kristine Cazadd
Copy: Richard Bennion

OFFICE OF ADMINISTRATIVE LAW

300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826



DEBRA M. CORNEZ
Director

MEMORANDUM

TO: Richard Bennion
FROM: OAL Front Desk
DATE: 1/9/2013
RE: Return of Approved Rulemaking Materials
OAL File No. 2012-1130-02N

OAL hereby returns this file your agency submitted for our review (OAL File No. 2012-1130-02N regarding Distilled Spirits).

If this is an approved file, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State. The effective date of an approved regulation is specified on the Form 400 (see item B.5). **Beginning January 1, 2013**, unless an exemption applies, Government Code section 11343.4 states the effective date of an approved regulation is determined by the date the regulation is filed with the Secretary of State (see the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State) as follows:

- (1) **January 1** if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
- (2) **April 1** if the regulation or order of repeal is filed on December 1 to February 29, inclusive.
- (3) **July 1** if the regulation or order of repeal is filed on March 1 to May 31, inclusive.
- (4) **October 1** if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

If an exemption applies concerning the effective date of the regulation approved in this file, then it will be specified on the Form 400. The Notice of Approval that OAL sends to the state agency will contain the effective date of the regulation. The history note that will appear at the end of the regulation section in the California Code of Regulations will also include the regulation's effective date. Additionally, the effective date of the regulation will be noted on OAL's Web site once OAL posts the Internet Web site link to the full text of the regulation that is received from the state agency. (Gov. Code, secs. 11343 and 11344.)

Please note this new requirement: Government Code section 11343 now requires:

1. Section 11343(c)(1): Within 15 days of OAL filing a state agency's regulation with the Secretary of State, the state agency is required to post the regulation on its Internet Web site in an easily marked and identifiable location. The state agency shall keep the regulation posted on its Internet Web site for at least six months from the date the regulation is filed with the Secretary of State.
2. Section 11343(c)(2): Within five (5) days of posting its regulation on its Internet Web site, the state agency shall send to OAL the Internet Web site link of each regulation that the agency posts on its Internet Web site pursuant to section 11343(c)(1).

OAL has established an email address for state agencies to send the Internet Web site link to for each regulation the agency posts. Please send the Internet Web site link for each regulation posted to OAL at **postedregslink@oal.ca.gov**.

DO NOT DISCARD OR DESTROY THIS FILE

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq.) regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

NOTICE PUBLICATION/REGULATION SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2012-1130-02N	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY State Board of Equalization			

2013 JAN -8 PM 3:00

2012 NOV 30 AM 11:34

OFFICE OF ADMINISTRATIVE LAW

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Distilled Spirits		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
		AMEND	
TITLE(S) 18		REPEAL 2558, 2558.1, 2559, 2559.1, 2559.3, 2559.5	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))			
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____			
<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State <input type="checkbox"/> Effective on filing with Secretary of State <input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Richard E. Bennion		TELEPHONE NUMBER (916) 445-2130	FAX NUMBER (Optional) (916) 324-3984
		E-MAIL ADDRESS (Optional) rbennion@boe.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Joann Richmond</i>	DATE November 29, 2012
TYPED NAME AND TITLE OF SIGNATORY Joann Richmond, Chief, Board Proceedings Division	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JAN 08 2013

Office of Administrative Law

Text of Proposed Changes to

Title 18. Public Revenue

~~Regulation 2558. Distilled Spirits.~~

~~Effective October 1, 2008, any alcoholic beverage, except wine as defined by Business and Professions Code section 23007, which contains 0.5 percent or more alcohol by volume derived from flavors or other ingredients containing alcohol obtained from the distillation of fermented agricultural products, is a distilled spirit.~~

~~Note: Authority cited: California Constitution, Article XX, Section 22; and Section 32451, Revenue and Taxation Code. Reference: Section 32002, Revenue and Taxation Code; and Sections 23004, 23005, 23006 and 23007, Business and Professions Code.~~

~~Regulation 2558.1. Wine.~~

~~(a) Effective January 1, 2012, wine as defined by Business and Professions Code section 23007 does not include any alcoholic beverage containing 0.5 percent or more alcohol by volume obtained from the distillation of fermented agricultural products other than from the particular agricultural product or products of which the wine is made.~~

~~(b) Except as provided in subdivision (a), wine-based products authorized for sale as wine by the Department of Alcoholic Beverage Control are deemed to be wine as defined by Business and Professions Code section 23007 for purposes of the Alcoholic Beverage Tax Law.~~

~~Note: Authority cited: California Constitution, Article XX, Section 22; and Section 32451, Revenue and Taxation Code. Reference: Section 23007, Business and Professions Code; and Sections 32002 and 32152, Revenue and Taxation Code.~~

~~Regulation 2559. Presumption -- Distilled Spirits.~~

~~Effective October 1, 2008, any alcoholic beverage, except wine as defined by Business and Professions Code section 23007, is presumed to contain 0.5 percent or more alcohol by volume derived from flavors or other ingredients containing alcohol obtained from the distillation of fermented agricultural products, unless this presumption is rebutted pursuant to Regulation 2559.1.~~

~~Note: Authority cited: California Constitution, Article XX, Section 22; and Section 32451, Revenue and Taxation Code. Reference: Section 32002, Revenue and Taxation Code; and Sections 23004, 23005, 23006 and 23007, Business and Professions Code.~~

Text of Proposed Changes to

Title 18. Public Revenue

Regulation 2559.1. Rebuttable Presumption—Distilled Spirits.

(a) ~~On or after July 10, 2008, the presumption in Regulation 2559 may be rebutted by the manufacturer of the alcoholic beverage filing a report, under penalty of perjury, with the Board stating that the alcoholic beverage contains less than 0.5 percent alcohol by volume derived from flavors or other ingredients containing alcohol obtained from the distillation of fermented agricultural products and specifying the sources of the alcohol content of the alcoholic beverage, including the alcohol by volume derived from flavors or other ingredients containing alcohol obtained by distillation.~~

(b) ~~The Board shall require a manufacturer's "Statement of Process" or "Formula" filed with the Alcohol and Tobacco Tax Trade Bureau, its predecessor agency or successor, under the following circumstances: (1) if the Board obtains information that casts doubt on the accuracy or truthfulness of a report filed under subdivision (a); or (2) for purposes of verifying any report filed under subdivision (a).~~

(c)(1) ~~If the Board determines that a manufacturer has not successfully rebutted the presumption in Regulation 2559, the Board shall notify the manufacturer of such determination, and the manufacturer may petition for a redetermination.~~

~~(2) Upon receiving notice from the Board, the manufacturer may petition the Board's determination within 30 days. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of the 30-day period.~~

~~(3) Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded.~~

~~(4) The Board shall reconsider the determination pursuant to its administrative appeals process set forth in California Code of Regulations, title 18, sections 5260-5271 and shall grant the applicant an oral hearing if timely requested within 30 days of the date the Decision and Recommendation issued by the Appeals Division is mailed to the manufacturer. Any Board hearing will be governed by the rules set forth in California Code of Regulation, title 18, sections 5510-5576.~~

~~(5) The order or decision of the Board upon a petition for redetermination becomes final 30 days after the date notice thereof is mailed to the manufacturer, except as provided in California Code of Regulations, title 18, section 5560.~~

~~(6) Any notice required by this section shall be placed in a sealed envelope, with postage paid, addressed to the manufacturer at the manufacturer's last known address as it appears in the records of the Board. The giving of notice shall be deemed complete at the time of deposit of the notice at a United States Post Office, mailbox, sub-post office, substation, mail chute, or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, notice may be served personally~~

Text of Proposed Changes to

Title 18. Public Revenue

by delivery to the person to be served and service shall be deemed complete at the time of such delivery. Personal delivery to a corporation may be made by delivery of a notice to any person designated to be served for the corporation with summons and complaint in a civil action, pursuant to the Code of Civil Procedure, title 5, chapter 4 (§ 416.10 et seq.).

Note: Authority cited: California Constitution, Article XX, Section 22; and Section 32451, Revenue and Taxation Code. Reference: Sections 32002, 32452 and 32453, Revenue and Taxation Code; and Sections 23004, 23005, 23006 and 23007, Business and Professions Code.

Regulation 2559.3. Internet List.

(a) ~~Not later than October 1, 2008, and updated on a quarterly basis thereafter to add or remove from the list, the Board shall develop, publish and maintain on its Internet site a listing of all alcoholic beverages that have been found to have successfully rebutted the presumption set forth in Regulation 2559.~~

(b) ~~Notwithstanding the addition of an alcoholic beverage to the list, the Board shall require a manufacturer's "Statement of Process" or "Formula" filed with the Alcohol and Tobacco Tax Trade Bureau, its predecessor agency or successor, under the following circumstances: (1) if the Board obtains information that casts doubt on the accuracy or truthfulness of a report filed under Regulation 2559.1, subdivision (a); or (2) for purposes of verifying any report filed under Regulation 2559.1, subdivision (a).~~

(c) ~~The Board shall remove from the list an alcoholic beverage that is finally determined under subdivision (d) to contain 0.5 percent or more alcohol by volume derived from flavors or other ingredients containing alcohol obtained from the distillation of fermented agricultural products, as set forth in Regulation 2558. Before the removal may take effect, the Board shall notify the manufacturer of this determination.~~

(d)(1) ~~Upon receiving notice from the Board, the manufacturer may petition the Board's determination within 30 days. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of the 30-day period.~~

(2) ~~Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded.~~

(3) ~~The Board shall reconsider the determination pursuant to its administrative appeals process set forth in California Code of Regulations, title 18, sections 5260-5271 and shall grant the applicant an oral hearing if timely requested within 30 days of the date the Decision and Recommendation issued by the Appeals Division is mailed to the manufacturer. Any Board hearing will be governed by the rules set forth in California Code of Regulation, title 18, sections 5510-5576.~~

Text of Proposed Changes to

Title 18. Public Revenue

~~(4) The order or decision of the Board upon a petition for redetermination becomes final 30 days after the date notice thereof is mailed to the manufacturer, except as provided in California Code of Regulations, title 18, section 5560.~~

~~(5) Any notice required by this section shall be placed in a sealed envelope, with postage paid, addressed to the manufacturer at the manufacturer's last known address as it appears in the records of the Board. The giving of notice shall be deemed complete at the time of deposit of the notice at a United States Post Office, mailbox, sub-post office, substation, mail chute, or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, notice may be served personally by delivery to the person to be served and service shall be deemed complete at the time of such delivery. Personal delivery to a corporation may be made by delivery of a notice to any person designated to be served for the corporation with summons and complaint in a civil action, pursuant to the Code of Civil Procedure, title 5, chapter 4 (§ 416.10 et seq.).~~

~~Note: Authority cited: California Constitution, Article XX, Section 22; and Section 32451, Revenue and Taxation Code. Reference: Section 32002, Revenue and Taxation Code; and Sections 23004, 23005, 23006 and 23007, Business and Professions Code.~~

~~Regulation 2559.5. Correct Classification.~~

~~Effective October 1, 2008, for purposes of tax reporting, a taxpayer will be deemed to have correctly classified an alcoholic beverage as not being a distilled spirit, as defined by Business and Professions Code section 23005, if at the time taxes are imposed, as set forth in the Revenue and Taxation Code, division 2, part 14, chapters 4, 5 and 5.5, the alcoholic beverage was included on the Board's list pursuant to Regulation 2559.3.~~

~~Note: Authority cited: California Constitution, Article XX, Section 22; and Section 32451, Revenue and Taxation Code. Reference: Section 32002, Revenue and Taxation Code; and Sections 23004, 23005, 23006 and 23007, Business and Professions Code.~~

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65)

NOTICE TO INTERESTED PARTIES
January 18, 2013

DEVELOPMENTAL AND REPRODUCTIVE TOXICANT IDENTIFICATION COMMITTEE MEETING DATE

The Developmental and Reproductive Toxicant Identification Committee is scheduled to meet on Monday, February 25, 2013, in the Coastal Hearing Room of the California Environmental Protection Agency headquarters building located at 1001 I Street, Sacramento beginning at 10:00 a.m. and continuing until all business is conducted or 5:00 p.m. The meeting agenda will be posted on the Office of Environmental Health Hazard Assessment (OEHHA) web site at <http://www.oehha.ca.gov/prop65.html> in advance of the meeting.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2012-1127-01

BOARD OF BEHAVIORAL SCIENCES

Advertising, Supervision & Continuing Education

This regulatory action, pursuant to AB 56 (Chapter 166, Statutes of 2011), makes some revisions to requirements for advertising by those regulated by the Board. It adds new requirements for interns for Marriage and Family Therapists and Professional Clinical Counselors. It also adds a requirement requiring two years of li-

censure prior to providing supervision of an associate clinical social worker.

Title 16

California Code of Regulations

AMEND: 1811, 1870, 1887.3

Filed 01/09/2013

Effective 04/01/2013

Agency Contact: Rosanne Helms (916) 574-7897

File# 2012-1130-02

BOARD OF EQUALIZATION

Distilled Spirits

This change without regulatory effect by the State Board of Equalization repeals sections 2558, 2558.1, 2559, 2559.1, 2559.3, 2559.5, of Title 18, of the California Code of Regulations. The changes are necessary because a California court of competent jurisdiction held the regulations to be invalid.

Title 18

California Code of Regulations

REPEAL: 2558, 2558.1, 2559, 2559.1, 2559.3, 2559.5

Filed 01/08/2013

Agency Contact:

Richard E. Bennion (916) 445-2130

File# 2012-1126-01

CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

Administration of California's Limited Tax-Exempt Debt Authority

The California Debt Limit Allocation Committee submitted this timely certificate of compliance action to make various amendments to their title 4 regulations and seven related incorporated by reference forms, and to adopt a new incorporated by reference form. The action is mainly related to housing projects for lower income families and individuals, to preserve and rehabilitate existing governmental-assisted housing for lower income families and individuals, and to amend existing sustainable building and energy efficiency methods to align with similar requirements by the California Tax Credit Allocation Committee. The amendments also completely revised the application form for small-issue industrial development bond projects.

Title 4

California Code of Regulations

ADOPT: 5205 AMEND: 5000, 5054, 5144, 5170, 5190, 5200, 5230, 5350, 5370 REPEAL: 5133

Filed 01/08/2013

Effective 01/08/2013

Agency Contact: Misti Armstrong (916) 653-3461